

# CITY OF OAKLAND



FINANCE DEPARTMENT ▪ 150 FRANK H. OGAWA PLAZA ▪ SUITE 5342 ▪ OAKLAND, CA 94612-2093  
Revenue Management Bureau (510) 238-3084

January 30, 2023

## IMPORTANT NOTIFICATION 2023 CANNABIS BUSINESS TAX RENEWAL NOTICE

**Please note: Only a completed declaration and payment mailed by **March 1, 2023** is considered **on-time****

Office visits are available on Mondays and Wednesdays (8am-4pm)

Please review this notice carefully as it outlines the requirements for your filing and paying the City of Oakland 2023 Cannabis Business Tax, and, if applicable, your 2022 Cannabis Business Tax. **Business Tax payment is required to maintain any local authorization or permit from the City of Oakland for cannabis activities.**

### CANNABIS BUSINESS TAX RATES SCHEDULE

On December 10, 2019, the Oakland City Council adopted Ordinance No. 13573 C.M.S. amending the Oakland Municipal Code (“OMC”) Title 5, Chapter 5.04, Sections 5.04.205 (P) and 5.04.267 to create a tiered and category-based tax structure for cannabis businesses. The new tiered and category-based tax structure for 2022 Tax Year, and if applicable, for a business newly established in calendar year 2021, is as follows:

| 2022 & After Cannabis Business Tax Rates |                                       |                         |                        |   |              |
|--|---------------------------------------|-------------------------|------------------------|---|--------------|
|  | Retail<br>(store-front &<br>delivery) | Indoor<br>Cultivation   | Outdoor<br>Cultivation | Manufacturing<br>Packaging &<br>Storage | Distribution |
| <b>Equity</b>                            |                                       |                         |                        |   |              |
| \$0 - \$1.5M                             | 0.12%                                 | 0.12%                   | 0.12%                  | 0.12%                                   | 0.12%        |
| \$1.5M - \$5M                            | 5.00%                                 | 5.00%                   | 4.50%                  | 4.50%                                   | 3.00%        |
| Over \$5M                                | 5.00%<br>(Non-Marginal)               | 5.00%<br>(Non-Marginal) | 5.00%                  | 5.00%                                   | 4.00%        |
| <b>General (Non-Equity)</b>              |                                       |                         |                        |   |              |
| \$0 - \$750K                             | 0.12%                                 | 0.12%                   | 0.12%                  | 0.12%                                   | 0.12%        |
| \$750K+ - \$1.5M                         | 4.00%                                 | 4.00%                   | 3.50%                  | 3.50%                                   | 2.50%        |
| \$1.5M+ = \$5M                           | 5.00%                                 | 5.00%                   | 4.50%                  | 4.50%                                   | 3.00%        |
| Over \$5M                                | 5.00%<br>(Non-Marginal)               | 5.00%<br>(Non-Marginal) | 5.00%                  | 5.00%                                   | 4.00%        |

### CANNABIS BUSINESS TAX REBATE PROGRAMS

In addition to the new tiered and category-based tax structure, the City Council also adopted four different tax rebate programs totaling nine separate and distinct conditions upon which a cannabis business would be entitled to the rebate of a portion of the taxes paid for 2023 Tax Year and, if applicable, 2022 Tax Year for a business newly established in calendar year 2022 if the business meets the required conditions. The rebate programs are as follows:

| 2023 CANNABIS BUSINESS TAX REBATE PROGRAMS  |   |                   |               |
|---|---|-------------------|---------------|
| Rebate Program  | Rebate Conditions   | Qualifying Period | Rebate Amount |
| Local Hiring Rebate<br>(5.04.267.B.2.a.)  | I. 30% of workforce consists of "Equity Employees"  | 182 Days          | 0.50%         |
|   | II. 25% of workforce consists of Equity Employees in "Essential Roles"  | 182 Days          | 0.50%         |
|   | III. 20% of workforce consists of Equity Employees in "Managerial Roles"  | 182 Days          | 0.50%         |
| Equity Supply Chain<br>(5.04.267.B.2.b.)  | I. 30% of value of cannabis products delivered to the business were delivered by an Equity Business   | 365 Days          | 0.50%         |
|   | II. 25% of value of cannabis products delivered to the business was originally cultivated or manufactured by an Equity Business   | 365 Days          | 0.50%         |
| Workforce Quality of Life<br>(5.04.267.B.2.c.)  | I. \$20/hr. with health benefits <u>or</u> \$25/hr. without health benefits for all employees employed  | 365 Days          | 0.50%         |
|   | II. 80% of total employees are full-time employees  | 365 Days          | 0.25%         |
| Incubation<br>(5.04.267.B.2.d.)   | I. Provide free rent to Equity Business beyond the initial three-year period  | Year 4th          | 0.5% - 1.50%* |
|   | II. Provide free rent to Equity Business in the tax year but does not seek "permitting priority"  | 365 Days          | 0.5% - 1.50%* |
|   | * Incubation Rebate Amount is based on 2022 total gross receipts: Less than \$2M = 1.5%; Up to \$7.5M = 1%; Greater than \$7.5M but less than \$12.5M = 0.5%; Greater than \$12.5M = no rebate. |                   |               |
| <b>IMPORTANT NOTE: In no case will a business be entitled to any rebates that would reduce the overall tax rate of less than 2.5% for 2023 Tax Year or 2022 Tax Year for those cannabis businesses established in 2022; In other words, a cannabis business would be subject to pay the floor/minimum tax rate of 2.5% regardless of the number or the amount of the tax rebates.</b> |   |                   |               |

**Form of Rebate:** Any cannabis business entitled to rebates may elect to be paid by check or to be paid in the form of a credit for any future business taxes owed. If the business elected for the rebates to be paid by check, the City shall make such payment to any business entitled to a rebate within sixty (60) days of the business submitting all documentation requested.

Taxpayer has (1) year from date of tax payment to file for a refund claim. Please refer to Oakland Municipal Code Sections 5.04.510 and 5.04.270. Oakland Municipal Code can be found by visiting [https://library.municode.com/ca/oakland/codes/code\\_of\\_ordinances](https://library.municode.com/ca/oakland/codes/code_of_ordinances)

## CANNABIS BUSINESS TAX RENEWAL FILING AND PAYMENT DUE DATE

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Oakland Municipal Code Sections 5.04.240 and 5.04.245 outline the requirements for the payment of Business Tax and the annual renewal payment thereof as follows:

### Businesses established **BEFORE** 2022:

- Choose either the “Form 2023-A, Equity Cannabis Business” or “Form 2023-A, General (Non-Equity) Cannabis Business” (see Cannabis Business Tax Declaration Forms below for additional information)
- Complete the appropriate sections for 2023 Tax Year
- Mail the completed declaration **and** payment by **March 1, 2023** to avoid mandatory penalties, interest and fees

## CANNABIS BUSINESS TAX DECLARATION FORMS

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The form number is located at the top right-hand corner of the form.

**Form 2023-A General (Non-Equity) Cannabis Business**: Applicable to cannabis businesses not certified as equity business.

**Form 2023-A Equity Cannabis Business**: Applicable to Equity Cannabis Businesses Only. To be eligible for the Equity-only tax rate, Equity Cannabis Business must have already submitted a completed application and received a confirmation email from the City Administrator’s Office of Cannabis Permits (see enclosed Sample Equity Cannabis Confirmation Email). A copy of confirmation email must accompany the Declaration form to receive the Equity-Only tax rate.

Oakland Municipal Code Sections 5.80.050 and 5.81.060 define an “Equity Business” whose ownership or owner:

- is an Oakland resident; and,
- in the last year, had an annual income at or less than 80 percent of Oakland Average Medium Income, which is to be adjusted for household size; and,
- either has lived in any combination of Oakland’s Police Beat 2X, 2Y, 6X, 7X, 19X, 21X, 216, 23X, 26Y, 27X, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 5X, 8X AND 35X for at least 10 of the last 20 years or was arrested after November 5, 1996 and convicted of a cannabis crime committed in Oakland.

## CALCULATION OF CANNABIS BUSINESS TAXES

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### Marginal vs. Non-Marginal Tax Rates:

Generally, marginal tax rate applies different tax rate at different level of gross receipts while non-marginal tax rate applies the tax rate to the entire amount of gross receipts.

The adopted 2022 Cannabis Business Tax Rates are marginal tax rates. The non-marginal tax rates apply to those cannabis businesses engaged in the sale of cannabis (store- front retail/delivery) or indoor cultivation of cannabis and generated more than \$5M in total gross receipts in 2022 or estimated to generate more than \$5M in total gross receipts in 2023.

### VERTICALLY INTEGRATED CANNABIS BUSINESSES

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A “Vertically Integrated Cannabis Business” is a business that generates gross receipts from more than one taxable activity or operations, such as those that are licensed as a Microbusiness from the California Cannabis Bureau of Control.

The applicable tax rate is the tax rate that produces the highest amount of the taxes owed based on the total gross receipts generated by the business without respect to the portion of gross receipts generated from any particular taxable activity (OMC § 5.04.205.(P)(3)).

### RELATED ENTITIES AND MASTER CERTIFICATE

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All persons and their related entities, such as a subsidiary or subsidiaries that are wholly owned by another company or an entity engaging in similarly categorized business activities from separate branch establishments or places of business shall be required to aggregate the gross receipts attributable to the City and file one tax declaration for all the related entities or places of businesses. (OMC § 5.04.310 and OMC § 5.04.320).

### SUMMARY

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The following is a matrix summarizing the above-mentioned requirements and the timeline upon which cannabis businesses need to timely report and/or pay the taxes in order to retain the local authorization for state licenses.

| <b>The Year in which the business established</b> | <b>Tax Years Needed to Pay</b> | <b>What to do by March 1, 2023</b>                            | <b>When to Pay</b> |
|---|--------------------------------|---|--------------------|
| Before 2022                                       | 2023                           | Declare 2022 Gross Receipts                                   | March 1, 2023      |
| In 2022   | 2022 and 2023                  | Declare 2022 Gross Receipts and Estimated 2023 Gross Receipts | March 1, 2023      |

## CANNABIS BUSINESS TAX PAYMENT PLAN

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Payment plans will continue to be provided for those with the 2023 tax obligation in excess of \$25,000. The maximum number of payments will remain at 10 equal payments, with the first payment begins in April 2023 and ends in January 2024 with the final payment.

Cannabis businesses with active payment plans are required to continue making payment as required.

## DEDUCTIBLE COSTS

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Cannabis businesses engaging in cultivation and manufacturing operations can deduct the cost of raw materials from the gross receipts. The costs of raw materials are for any materials, excluding pre-packaging or finished products, used in the cultivation and/or the manufacturing process of cannabis. No other costs can be deducted.

## APPORTIONMENT GUIDELINES

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Taxpayers who are engaged in business activities within and outside the city may be entitled to apportionment of gross receipts. Gross receipts are subject to apportionment only when the taxpayer can document that the gross receipts are attributed to substantial out-of-city activities. It is the responsibility of the taxpayer to request in writing for an apportionment of the gross receipts and provide the necessary documentation to support out-of-city activities. Otherwise, no apportionment and/or exclusion will be allowed.

OMC Section 5.04.270(D): The City Administrator may issue guidelines to be used to determine the appropriate apportionment method for any given business. Such guidelines may be general or specific to a particular industry or industries.

For Apportionment Guideline that applies to cannabis businesses, please visit <https://cao-94612.s3.amazonaws.com/documents/ruling10.pdf> for information. If apportionment is claimed, please attach a separate sheet detailing 1) the total gross receipts; 2) the amount of gross receipts apportioned from the total gross receipts; 3) the local jurisdiction(s) in which the business activities occur; and 4) the applicable business license number or business tax certificate number issued from the local jurisdiction(s) from which your company engages in the business.

## PRIOR UNPAID TAXES

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Businesses with prior unpaid taxes should contact the Finance Department to make arrangement for the payment of unpaid taxes to avoid the possibility of having the City's permit and local authorization for state license(s) revoked, assessment of taxes and charges that could be substantial and possible legal action.

## QUESTIONS

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If you need to make an appointment, require assistance in the calculation of the tax or have questions, please contact the Finance Department – Revenue Audit Unit at (510) 238-3084 or at [Audit@OaklandCA.gov](mailto:Audit@OaklandCA.gov).

As always, the City of Oakland values its business relationship with and looks forward to working with you to ensure your timely filing and paying the Business Tax to retain the local authorization for your state license.

### **Encl.**

City of Oakland 2023 Cannabis Business Tax Declaration Forms  
Sample Equity Cannabis Confirmation Email



CITY OF OAKLAND – 2023 CANNABIS BUSINESS TAX RENEWAL DECLARATION

DELINQUENT IF PAID or POSTMARKED AFTER MARCH 1, 2023

Only a completed declaration and payment mailed by March 1, 2023 is considered on-time

SECTION I – BUSINESS INFORMATION

- 1. Business Tax No.:
2. Mailing Address:
3. Business Name:
4a. Business Location:
4b. Business Type:
4c. Numbers of employees: Full time: Part Time: Total (full time + part time):

SECTION II – CLOSE ACCOUNT

Oakland Municipal Code 5.04.300(J) requires written documentation if the business is not intended to continue beyond December 31st in any given year.

Month Day Year then skip to Section IV.

Any business that was operated, sold or discontinued after January 1, 2023, is required to complete the remainder of this Declaration.

SECTION III – BUSINESS STARTED BEFORE 2022

PLEASE REVIEW ATTACHED NOTIFICATION FOR INSTRUCTIONS

2023 TAX YEAR

Table with 2 columns: Line Number, Description, and Amount. Lines 5-19 cover tax calculations from Gross Receipts to Total Amount Due.

2023 Tax Rates

Table with 2 main sections: Equity Cannabis and General (Non-Equity) Cannabis. Each section has columns for Business Type and cultivation types (Retail, Indoor, Outdoor, Manufacturing, Distribution) with corresponding tax rates.

SECTION IV – SIGNATURE

I hereby declare, under penalty of perjury, that the information contained herein is to the best of my knowledge, true and complete.

Signature form with fields for Print Name, Title, Signature, Date, Phone Number, and Email Address.

SECTION V – DEMOGRAPHIC INFORMATION

The collection of demographic information is necessary to the City's ability to check equity progress related to business development in Oakland.

- A. Business Owner Gender (select one): Female, Male, Non-Binary, Multiple Owners, Decline to State
B. Business Owner Race/Ethnicity (select one): African American / Black, American Indian / Alaskan Native, Asian / Asian American, Latino / Hispanic, Native Hawaiian / Pacific Islander, White, Multi-Racial, Other, Multiple Owners, Decline to State



CITY OF OAKLAND – 2023 CANNABIS BUSINESS TAX RENEWAL DECLARATION

DELINQUENT IF PAID (unless extended) or POSTMARKED AFTER MARCH 1, 2023

Attach Equity Cannabis Business confirmation email to qualify

Only a completed declaration and payment mailed by March 1, 2023 is considered on-time

SECTION I – BUSINESS INFORMATION

- 3. Business Tax No.: \_\_\_\_\_ 3. Business Name: \_\_\_\_\_
4. Mailing Address: \_\_\_\_\_ 4a. Business Location: \_\_\_\_\_
4b. Business Type: \_\_\_\_\_ (R=Retail; IC=Indoor Cultivation; OC=Outdoor Cultivation; M=Manufacturing; D=Distribution; V=Vertically Integrated)
4c. Numbers of employees: Full time: \_\_\_\_\_ Part Time: \_\_\_\_\_ Total (full time + part time): \_\_\_\_\_

SECTION II – CLOSE ACCOUNT

Oakland Municipal Code 5.04.300(J) requires written documentation if the business is not intended to continue beyond December 31st in any given year. If this business was sold or discontinued within Oakland in 2022, enter the last date any business activity occurred:

Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_ then skip to Section IV.

Any business that was operated, sold or discontinued after January 1, 2023, is required to complete the remainder of this Declaration.

SECTION III – BUSINESS STARTED BEFORE 2022

PLEASE REVIEW ATTACHED NOTIFICATION FOR INSTRUCTIONS

Note: Businesses that generate more than \$5,000,000, complete every step from Line 5 to Line 13

2023 TAX YEAR

Table with 2 columns: Line Number, Description, and Amount. Lines 5-16 detailing tax calculations including Gross Receipts, Tax Due, Penalties, and Interest.

2023 Tax Rates

Table with 2 main sections: Equity Cannabis and General (Non-Equity) Cannabis. Each section has columns for Business Type and Tax Rate.

SECTION IV – SIGNATURE

I hereby declare, under penalty of perjury, that the information contained herein is to the best of my knowledge, true and complete.

Signature fields for Print Name, Title, Signature, Date, Phone Number, and Email Address.

SECTION V – DEMOGRAPHIC INFORMATION

The collection of demographic information is necessary to the City's ability to check equity progress related to business development in Oakland. With this knowledge the City can improve our approach to business stabilization support services and over time verify that our efforts are producing fair and just outcomes for all business owners in the City of Oakland.

- A. Business Owner Gender (select one): Female, Male, Non-Binary, Multiple Owners, Decline to State
B. Business Owner Race/Ethnicity (select one): African American / Black, American Indian / Alaskan Native, Asian / Asian American, Latino / Hispanic, Native Hawaiian / Pacific Islander, White, Multi-Racial, Other, Multiple Owners, Decline to State

## **SAMPLE EQUITY CANNABIS CONFIRMATION EMAIL**

EQUITY APPLICANT: XXX

ADDRESS: XXX

APPLICATION FILED UNDER: XXX DBA: XXX

Thank you for submitting your cannabis permit application and supporting documents. This email is to confirm that your eligibility as an equity applicant has been reviewed and verified.

As you may be aware, equity applicants are exempt from city permitting fees under OMC 5.80.045(C) and 5.81.060(C).

To avoid paying any building or fire department fees, the equity qualified individual must present this email confirming your equity status along with an ID to the Building/Fire Prevention cashiering staff when you apply/request any Building or Trade permits or inspections.

Alternatively, the equity qualified individual may identify an authorized representative to act on their behalf by completing the attached "Letter of Agency" form and having it notarized. The representative must present this authorization form along with this email to staff to avoid paying City fees. This will help minimize confusion and ensure our limited city resources are spent per the policies determined by our council.

**Please note this fee exemption does not apply to general applicants, including those incubating equity applicants. If the equity applicant is operating at the same property as their general applicant incubator, the equity applicant must provide a floor plan which distinguishes the equity applicant's space from the general applicant's space.**